HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 743 of 2004

Smt. Parvati Devi ..... Petitioner

Versus

Bishwshwar Prasad Balodhi & another ..... Respondents

Sri Vinod Nautiyal, Advocate for the petitioner
Sri Nand Prasad, Standing Counsel for the respondents.

Dated: 12.8.2004

Hon. Rajesh Randon, J.

Heard the learned counsel for the parties at length.

By the present writ petition the petitioner has prayed for a writ of certiorari to quashing the order dated 23.7.2004 passed by the District Judge, Pauri Garhwal.

Briefly stated the facts giving rise to the present writ petition are that a suit was filed by the plaintiff for restraining the defendant from making any construction over the public path way. Along with the suit he has filed an application for ad interim injunction. The said application has been rejected by the trial Court. Against the said order the plaintiff has preferred an appeal before the District Judge, Pauri Garhwal. The appeal was allowed by the District Judge. The appellate Court has

restrained the defendant from making any construction over the disputed path way. Feeling aggrieved, the present writ petition has been field by the defendant.

The short submission of the petitioner is that on the garb of injunction the plaintiff respondents are not permitting the petitioner to make construction in his own house. So far as the impugned order is concerned I do not find any infirmity in the order passed by the court below granting the injunction in respect of pathway alone.

In my opinion the District Judge has rightly passed the order restraining the defendants from making any construction on the public pathway.

Since the learned District Judge has confined the order with regard to pathway alone, I do not find that the order in question has restrained the defendants from making any constructions in his own house except on the public pathway. However, the trial Court is directed to expedite the disposal of the suit within four months after the receipt of the certified copy of this order.

Subject to the aforesaid observation, the writ petition is dismissed.

(Rajesh Tandon J.)

12.8.2004
*Dhyani